



# Maryland

## Department of Economic & Employment Development

*William Donald Schaefer*  
Governor

*J. Randall Evans*  
Secretary

*Board of Appeals*  
*Thomas W. Keech, Chairman*  
*Hazel A. Warnick, Associate Member*  
*Donna P. Watts, Associate Member*

*1100 North Eutaw Street*  
*Baltimore, Maryland 21201*  
*Telephone: (301) 333-5032*

— DECISION —

IN THE MATTER OF THE APPEAL OF:	Decision No.:	11-EA-91
Perry Hall Medical Administrative Services	Date:	Feb. 28, 1991
	Exec. Determ. No.:	7550
	Employer Account No.:	

ISSUE:           Whether or not services performed by doctors for the petitioner constitute employment under Section 20(G)(6) of the Unemployment Insurance Law.

— NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY, IN THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU DO BUSINESS.

THE PERIOD FOR FILING AN APPEAL TO COURT EXPIRES March 30, 1991.

— APPEARANCES —

For the Appellant:

For the Secretary:

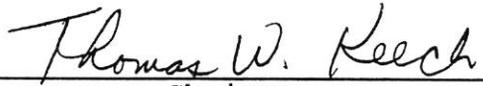
REVIEW ON THE RECORD

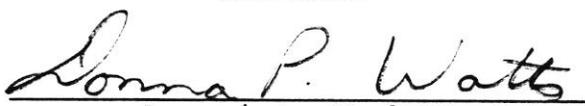
Upon review of the record in this case the Board of Appeals adopts the Findings of Fact and Conclusions of Law of the Hearing Examiner.

DECISION

The physicians (and the psychologist) who received checks from Perry Hall Medical Administrative Services were not employees of that entity, as their service met all the requirements of Section 20(g)(6) of the law.

The decision of the Special Examiner is affirmed.

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Associate Member

COPIES MAILED TO:

EMPLOYER

Gregory O. Marsalek

Jerry Placek - Room 407

John T. McGucken - Legal Counsel, DEED

# Maryland

## DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

1100 North Eutaw Street  
Baltimore, Maryland 21201  
(301) 333-5033

William Donald Schaefer, Governor  
J. Randall Evans, Secretary

### BOARD OF APPEALS

Thomas W. Keech, Chairman  
Hazel A. Warnick, Associate Member  
Donna P. Watts, Associate Member

### — DECISION —

IN THE MATTER OF THE APPEAL OF:

Perry Hall Medical Adm. Serv.

Decision No.:

62 -EA-90

Date:

Dec. 31, 1990

rec. Determ. No.:

7550

Employer Account No.

ISSUE: Whether or not services performed by doctors for the petitioner constitute employment under Section 20(G)(6) of the Unemployment Insurance Law.

### — NOTICE OF RIGHT OF FURTHER APPEAL —

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAY BE FILED IN ANY DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT OFFICE OR WITH THE BOARD OF APPEALS, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

January 15, 1991

### — APPEARANCES —

For the Appellant:

Angela Meek - Administrator  
Gregory Marsalek - Accountant  
David M. Trailins, Esquire

For the Secretary:

Jerry Placek -  
Review Det.  
Unit Supervisor

### FINDINGS OF FACT

The employer filed a timely appeal to an agency determination which held that between eleven and twelve practicing physicians, who performed medical services at 9660 Belair Road, Baltimore, Maryland 21236, in the calendar year 1988, were employees of Perry Hall Medical Administrative Services, Inc. and not independent contractors within the meaning of Section 20(g)(6)(i)(ii)(iii) of the Maryland Unemployment Insurance Law.

Perry Hall Medical Administrative Services, Inc. was incorporated in the State of Maryland in 1985. Their corporate purpose is to supply medical support services, as well as a facility, to practicing Maryland physicians. Prior to their incorporation in 1985, this employer provided similar services to interested Maryland physicians. The Special Examiner finds as a fact that, during the calendar year 1988, none of the practicing physicians, who performed services at 9660 Belair Road, Baltimore, Maryland 21236, had entered into any written agreement, of any kind, with Perry Hall Medical Administrative Services, Inc.

By law, this corporation is required to have a Board of Directors. This Board of Directors, which is composed primarily of physicians who practice at this facility, meets approximately four times a year. The Special Examiner finds as a fact that Perry Hall Medical Administrative Services, Inc. pays no compensation to any member of their Board of Directors.

This company employs twenty-four employees which are currently covered by the provisions of the Maryland Unemployment Insurance Law. As previously stated, the employer's corporate purpose is to provide medical support services, as well as a facility, to interested Maryland practicing physicians. As their name would imply, Perry Hall Medical Administrative Services, Inc. provides a complete series of administrative services for their clients. Specifically, the employer provides for the billing of patients, the collection of fees, notification to third party insurance carriers, receptionist services and maintenance services, as well as other services which would facilitate the practicing physician in the performance of his/her occupation. The Special Examiner finds as a fact that the employer cannot and does not provide any medical services through their employees. Likewise, the physicians who conduct their medical practice at 9660 Belair Road, Baltimore, Maryland 21236 have no active input or participation in the day to day business operation of the staff at Perry Hall Medical Administrative Services, Inc.

Angela Meek is the employer's administrator. Mrs. Meek independently exercises her right to hire, discipline and if necessary discharge any staff employee of Perry Hall Medical Administrative Services, Inc.

For the service that they provide to the practicing physician, the employer deducted 35%, in 1988, of the gross amount of fees which they collected on behalf of their clients, the

practicing physicians. Perry Hall Medical Administrative Services, Inc. does not solicit or recruit any of their clients. It is generally by personal referral that a new physician is introduced to the employer's administrator. Although the physicians may voice their opinions, through the Board of Directors, regarding the fee structure which they are to be charged, the employer's administrator sets the fee which is to be charged to each practicing physician. Generally at the end of each month, the employer issues a check to each individual physician which represents 65% of their fees, which were collected by Perry Hall Medical Administrative Services, Inc.

Regarding the issue of scheduling, each physician determines when he/she will be available in the facility to provide medical services. The employer's staff, as part of their fee arrangement, actually schedule each physician's patients' appointment. In addition, the employer provides, as part of their fee arrangement, the use of certain equipment, i.e. x-ray equipment, as well as secretarial services, as well as the staff and equipment necessary to generate patient billing, the recordation of individual patient payments and the monitoring of claims which have been directed to third-party insurance carriers.

At the present time, several physicians, who conduct their medical practice at the employer's facility, maintain no other office for their medical practice other than at 9660 Belair Road, Baltimore, Maryland, 21236. The remaining physicians maintain other offices in which to conduct their medical practice. The Special Examiner finds as a fact that the employer, Perry Hall Medical Administrative Services, Inc. makes no differentiation in the service which is provided to any of their clients, regardless of whether they maintain an active medical practice at another business location.

The Special Examiner finds as a fact that all physicians conducting a medical practice at 9660 Belair Road, Baltimore, Maryland 21236 are duly licensed as medical doctors, with the exception of one individual who is a licensed psychologist, within the State of Maryland.

Based on the Review Determination, the Agency extended their audit to include the calendar years of 1987 and 1989.

## CONCLUSIONS OF LAW

In order for services performed by these medical doctors and/or licensed psychologist to be exempt under the Maryland Unemployment Insurance Statute, all three sections of 20(g)(6) (i)(ii)(iii) must be satisfied.

This section of the Maryland Unemployment Insurance Law states:

Services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to this article, irrespective of whether the common-law relationship of master and servant exists, unless and until it is shown to the satisfaction of the Secretary that:

(i) That individual has been and will continue to be free from control or direction over the performance of those services, both under his contract of service and in fact; and

(ii) The service is either outside the usual course of the business for which that service is performed, or that the service is performed outside of all the places of business of the enterprise for which the service is performed; and

(iii) The individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service in question.

The Special Examiner finds that each medical doctor and/or licensed psychologist who had conducted their practice at 9660 Belair Road, Baltimore, Maryland 21236, during the calendar year 1988, were free from control and direction over the performance of those services, within the meaning of this statutory section. Any control which the employer maintained over these individual practitioners was minimal at best, and the Special Examiner finds that such minimal control does not render these individual as employees within this section of the Maryland Unemployment Insurance Statute.

Regarding the issue of service, the Special Examiner finds that Perry Hall Medical Administrative Services, Inc. specifically supplies medical support services. Incorporated within the aspect of medical support services is the employer's providing of the facility at which licensed professionals can independently practice their profession. Since the employer's clients practice medicine and/or psychology, their service is separate and distinct from any service provided by the employer.

The Special Examiner further finds as a fact that each medical doctor and/or psychologist performing services at 9660 Belair Road, Baltimore, Maryland 21236, during the calendar year 1988, was customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service in question. The fact that several practicing physicians maintained no other medical office for their practice of medicine, other than at the Belair Road location, does not subject them to inclusion within statutory Section 20(g)(6) of the Maryland Unemployment Insurance Law.

Finally, the Special Examiner finds that the 65%/35% fee arrangement between the employer and their professional clients is conducive to an independent contractual arrangement between the parties, and such an arrangement was intended by Section 20(g)(6)(i)(ii)(iii) of the Maryland Unemployment Insurance Law.

Therefore, the Special Examiner will find that services performed by these professionals, during the calendar year 1988, are not within covered employment within the meaning of the Maryland Unemployment Insurance Law. Therefore, their fees will not have to be reported for Maryland Unemployment Insurance purposes. In addition, the Agency's extension of the audit to include the calendar years of 1987 and 1989 will not be necessary. The Agency's Review Determination, #7550, will be reversed.

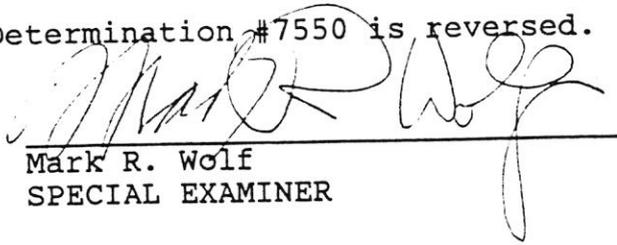
#### DECISION

Perry Hall Medical Administrative Services, Inc. has satisfied the statutory requirements of Section 20(g)(6)(i)(ii)(iii) of the Maryland Unemployment Insurance Law regarding services performed by licensed medical professionals, physicians and/or psychologists, during the calendar year, 1988. These individual's fees, earned during the calendar year 1988, are not to be considered as covered employment at this employer.

These professionals were independent contractors within the meaning of this statutory section.

In addition, based on this decision any extension of the Agency's audit to include the calendar year of 1987 and 1989 is unnecessary.

Therefore, the Agency Review Determination #7550 is reversed.



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Mark R. Wolf  
SPECIAL EXAMINER

MRW:kmb

DATE OF HEARING: November 28, 1990

COPIES MAILED TO:

EMPLOYER

Gregory O. Marsalek

Jerry Placek - Room 407

John T. McGucken - Legal Counsel, DEED